

UNITED STATE DISTRICT COURT
DISTRICT OF NEW JERSEY

ELIAS ABILHEIRA, ESQ.,
ABILHEIRA & ASSOCIATES, P.C.
34 East Main Street
Freehold, New Jersey 07728
Attorneys for Defendants
CHARLES K. SOLIDAY, and Ljf, INC.,
732-866-1883
FILE NO.: 0045-DJ

-----X
JOSEPH M. LLARENA,

-Plaintiff, **NOTICE OF REMOVAL**
vs.

CHARLES K. SOLIDAY, Ljf, INC.,;
JOHN DOE, (fictitious person);
PAT DOE (fictitious person); ABC
CORP., INC., (fictitious entity)
and/or DEF CORP., INC.,
(fictitious entity)

-----X
-Defendants.

TO: Floyd C. Goldsman, Esq.
60 Evergreen Place - Suite 312
East Orange, New Jersy 07018
Attorney for Plaintiff

PLEASE TAKE NOTICE that on this date, defendants, CHARLES K. SOLIDAY, AND Ljf, INC., by their undersigned counsel, has filed this Notice of Removal pursuant to 28 U.S.C. Section 1446(a), in the office of the Clerk of the United States District Court for the District of New Jersey.

Defendants, by their undersigned attorney, show:

1. Plaintiff, JOSEPH M. LLARENA, brought an action against the defendants in the Superior Court of the State of New Jersey, Law Division, Essex County, by filing a Complaint on or about November 14, 2016. A true copy of the Complaint is annexed as

Exhibit "A".

2. The Summons and Complaint were received by defendants on or about January 13, 2017. A true copy of the Summons is annexed as Exhibit "B".

3. Defendant served and filed an Answer with the Superior Court of New Jersey, Law Division, Essex County, and served same upon the plaintiff with a Demand for Statement of Damages on February 13, 2017. A true copy of the Answer with the Demand for Statement of Damages is annexed hereto as Exhibit "C".

4. Defendant received a Statement of Damages from plaintiff on March 8, 2017, from plaintiff's attorney indicating that the damages sought by plaintiff are in the amount of \$100,000.00. A true copy of plaintiff's Statement of Damages is annexed hereto as Exhibit "D".

5. It is only upon receipt of plaintiff's Statement of Damages that defendants were able to determine that the amount in controversy with respect to this matter exceeds \$75,000.00, exclusive of interest and costs.

6. It is respectfully submitted that plaintiff's Statement of Damages satisfies the requirement of an amended pleading, motion, order, or other papers, from which it may first be asserted that the case is one which is or has become removable pursuant to 28 U.S.C. Section 1446(b).

7. There have been no other proceedings in this action.

8. Plaintiff purports to be a resident and citizen of the

State of New Jersey, residing within the County of Essex.

9. Defendant, CHARLES K. SOLIDAY is resident and citizen of the State of Pennsylvania, residing within the County of Clearfield.

10. Defendant L.J.F., INC., is a corporation incorporated under the laws of the State of Pennsylvania with its principal place of business located in Irvona, Pennsylvania, County of Clearfield.

11. There are no other defendants which can be ascertained at this time who are believed to reside in New Jersey.

12. The matter in controversy is alleged to be \$100,000.00, exclusive of interest and costs.

13. Jurisdiction over the subject matter of this action is conferred on the Court by 28 U.S.C. Section 1446(b).

14. Jurisdiction in this Court is proper pursuant to 28 U.S.C. Section 1332, in that the parties are of complete diversity, the amount in controversy exceeds 75,000.00 exclusive of interest and costs, and no defendant is citizen of the State of New Jersey.

15. This notice is filed with this Court within thirty (30) days of defendant's receipt. "Through service or otherwise of a copy of an amended pleading, motion, order, or other paper, from which it may first be ascertained that the case is one which is or has become removable" as provided by 28 U.S.C. Section

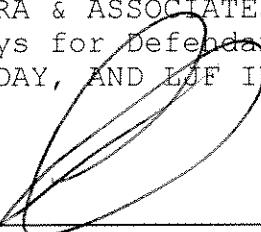
1446(b)."

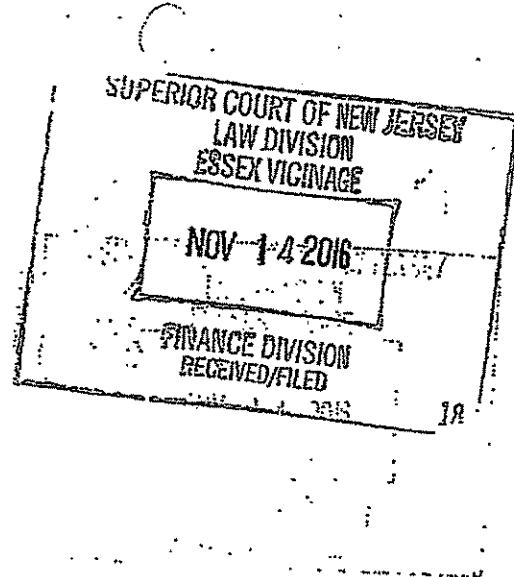
PLEASE TAKE FURTHER NOTICE that defendant, upon filing the Notice of Removal in the Office of the Clerk of the United States District Court for the District of New Jersey, has also filed copies of the Notice with the Clerk of the Superior Court of New Jersey, Law Division, Essex County at 465 Martin Luther King, Jr. Boulevard, Newark, New Jersey, 07102 to effect removal of this action to the U.S. District Court pursuant to 28 U.S.C. Section 1446(d), and upon counsel for plaintiff, Floyd C. Goldsman, Esq., 60 Evergreen Place, Suite 312, East Orange, New Jersey 07108.

Dated: March 13, 2017

ABILHEIRA & ASSOCIATES, P.C.
Attorneys for Defendants, CHARLES
K. SOLIDAY, AND LDF INC.

By:


ELIAS ABILHEIRA, ESQ.



FLOYD C. GOLDSMAN, ESQUIRE
ATTORNEY I.D 007131979
60 EVERGREEN PLACE, SUITE 312
EAST ORANGE, NEW JERSEY 07018
(973) 676-1555
ATTORNEY FOR PLAINTIFF(S)

JOSEPH M. LLARENA

Plaintiff(s),

v.

CHARLES K. SOLIDAY, LJF INC.; JOHN
DOE (Fictitious person), PAT DOE
(Fictitious person); ABC CORP., INC.
(Fictitious entity) and/or DEF CORP.,
INC. (Fictitious entity)

Defendant(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY
DOCKET NO.: ESX-L- 7852-16

Civil Action

COMPLAINT AND JURY DEMAND

Plaintiff, Joseph M. Llarena currently residing at 21 Aspen Road, in the Township of West Orange, County of Essex and State of New Jersey, by way of complaint against defendants herein, states as follows:

1. On or about August 1, 2016, plaintiff, Joseph M. Llarena was the operator of a motor vehicle which was being operated in a careful and prudent manner on Interstate I-80 near mile post 34.6 in Rockaway Township, County of Morris and State of New Jersey.

2. At the aforementioned time and place, defendant, Charles K. Soliday, and/or John Doe (fictitious person) and/or ABC Corp., (fictitious entity),

was operating a motor vehicle as an agent, servant, representative and/or employee of defendant, L.J.F Inc. and/or Pat Doe (fictitious person) and/or DEF Corp., (fictitious entity), and operated said motor vehicle in a careless and negligent fashion at an excessive rate of speed without regard to traffic circumstances then and there existing so as to cause the accident by striking the motor vehicle the plaintiff was operating, thereby causing the accident and the injuries sustained by the plaintiff.

3. As a result of the negligence and carelessness of defendants as aforesaid, plaintiff was caused to experience great pain and mental anguish; was caused to suffer bodily injuries permanent in nature; was caused to be deprived of usual activities; was caused to expend large sums of money to cure and treat related injuries; was caused to suffer temporary and permanent disability, all detrimental; and will be deprived of usual activities in the future.

WHEREFORE, plaintiff, Joseph M. LLarena, demands judgment against defendants, jointly, severally and/or individually, for such sums as will reasonably and proper compensation in accordance with the laws of the State of New Jersey, together with interest and costs of suit.

JURY DEMAND

PLEASE TAKE NOTICE that plaintiff demands a trial by jury as to all issues.

RULE 4:5-1 CERTIFICATION

The matter in controversy of this action is not the subject of any other court or arbitration proceeding, nor is any other court or arbitration proceeding contemplated.

I HEREBY CERTIFY that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: November 3, 2016

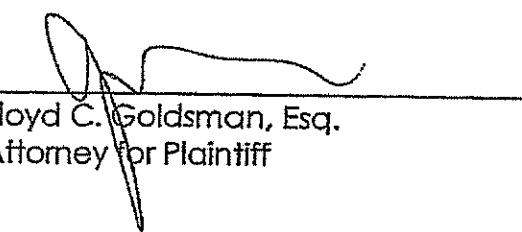

Floyd C. Goldsman, Esq.
Attorney for Plaintiff

Exhibit B

FLOYD C. GOLDSMAN, ESQUIRE
Attorney I.D. No. 007131979
60 Evergreen Place
East Orange, New Jersey 07018
(973) 676-1555
Attorney for Plaintiff(s)

JOSEPH M. LLARENA,
Plaintiff(s),
v.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ESSEX COUNTY
DOCKET NO.: ESX-L-7852-16

CHARLES K. SOLIDAY, ET AL.

Civil Action

Defendants.

SUMMONS

From The State of New Jersey To the Defendants Named Above:

CHARLES K. SOLIDAY

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) A \$135.00 filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services offices in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and on line at http://www.judiciary.state.nj.us/prose/10153_deputyclerklaeref.pdf.

Dated: December 30, 2016

/s/Christopher J. Durkin
CHRISTOPHER J. DURKIN
Clerk of the Superior Court

Name of defendant to be served CHARLES K. SOLIDAY
Address for service: 571 Walker Street
Houtzdale, PA 16651

ELIAS ABILHEIRA, ESQ. - 032211994
ABILHEIRA & ASSOCIATES, P.C.
34 East Main Street
Freehold, New Jersey 07728
Attorneys for Defendants
CHARLES K. SOLIDAY, and
LJF, INC.,
732-866-1883
FILE NO.: 0045-DJ

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JOSEPH M. LLARENA,

-Plaintiff,
vs.

CHARLES K. SOLIDAY, LJF, INC.,;
JOHN DOE, (fictitious person);
PAT DOE (fictitious person); ABC
CORP., INC., (fictitious entity)
and/or DEF CORP., INC.,
(fictitious entity)

-Defendants.

-----X
SUPERIOR COURT OF NEW JERSEY
LAW DIVISION/ESSEX COUNTY

DOCKET NO.: ESX-L-7852-16

**ANSWER, DEMAND FOR STATEMENT
OF DAMAGES, JURY DEMAND**

The defendants, CHARLES K. SOLIDAY, and LJF, INC., by their
attorneys, ABILHEIRA & ASSOCIATES, P.C. by way of Answer to the
Complaint, says:

1. The answering defendants deny the allegations contained in paragraph 1 of the Complaint.
2. The answering defendants deny the allegations contained in paragraph 2 of the Complaint.
3. The answering defendants deny the allegations contained in paragraph 3 of the Complaint.

WHEREFORE, defendants demand judgment dismissing plaintiff's
Complaint, together with costs and reasonable attorney's fees.

FIRST SEPARATE DEFENSE

Negligence, if any, on the part of the answering defendants

was not the proximate cause of any injuries which may have been sustained by the plaintiff.

SECOND SEPARATE DEFENSE

Damages, if any, sustained by the plaintiff was the result of actions of third parties over whom these defendants exercised no control.

THIRD SEPARATE DEFENSE

Damages, if any, was the result of the sole negligence of the plaintiff.

FOURTH SEPARATE DEFENSE

Plaintiff's claims are barred or, at the very least, the damages to which they are entitled are reduced by virtue of the doctrine of comparative negligence and the New Jersey Comparative Negligence Act, N.J.S.A. 2A:15-5.1 et seq.

FIFTH SEPARATE DEFENSE

Plaintiff's claims are barred or at the very least, plaintiff's damages must be reduced, by virtue of the Doctrine of Avoidable Consequences.

SIXTH SEPARATE DEFENSE

Plaintiff's claims are barred by the Doctrine of Assumption of the Risk.

SEVENTH SEPARATE DEFENSE

Plaintiff failed to mitigate his damages.

EIGHTH SEPARATE DEFENSE

The Court herein does not have jurisdiction over the person

of this answering defendant, in that they were not properly served with the Summons and Complaint in the above action.

NINTH SEPARATE DEFENSE

The claims alleged in the plaintiff's Complaint are barred by the Statute of Limitations.

TENTH SEPARATE DEFENSE

The Complaint and its individual counts fail to state a cause of action for which relief may be granted.

ELEVENTH SEPARATE DEFENSE

Plaintiff's Complaint is barred in whole or in part by the provisions of the New Jersey Automobile Reparations Act, N.J.S.A. 39:6A-1, et seq.

TWELFTH SEPARATE DEFENSE

Plaintiff's causes of action are barred by the equitable doctrines of laches and estoppel.

DEMAND FOR STATEMENT OF DAMAGES CLAIMED

We hereby demand that plaintiff serves upon us, within five (5) days from the date of service hereof, a written Statement of Damages claimed, pursuant to Rule 4:5-2.

JURY DEMAND

Defendants hereby demand a trial by jury of all justiciable issues herein.

RULE 4:5-1 CERTIFICATION

I hereby certify that the matter in controversy is not the subject of any other action or proceeding, pending or

contemplated, and that I know of no other party who should be joined in this action.

NOTICE OF ALLOCATION

Pursuant to R.4:7-5(c) and Young vs. Latta, 123 N.J. 584 (1991), these defendants hereby advise that if any co-defendant settles the within matter prior to conclusion of trial, the liability of any settling co-defendant shall remain an issue and this defendant shall seek an allocation of percentage of negligence by the finder of fact against such settling co-defendant and/or a credit in favor of these defendants consistent with such allocation.

DESIGNATION OF TRIAL COUNSEL

Please take notice that, pursuant to Rule 4:25-4, Elias Abilheira, Esq., is hereby designated as trial counsel in the within matter.

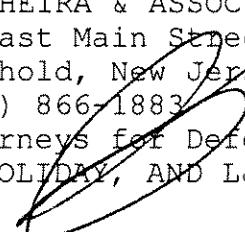
CERTIFICATION OF TIMELY FILING

I hereby certify that a copy of the within Answer was duly filed and served within the time prescribed by the Court Rules, as extended.

Dated: February 10, 2017

ABILHEIRA & ASSOCIATES, P.C.
34 East Main Street
Freehold, New Jersey 07728
(732) 866-1883
Attorneys for Defendants, CHARLES K. SOLIDAY, AND L.J.F. INC.

By:


ELIAS ABILHEIRA, ESQ.

TO: Floyd C. Goldsman, Esq.
60 Evergreen Place - Suite 312
East Orange, New Jersey 07018
Attorney for Plaintiff



ATTORNEY'S CERTIFICATION OF SERVICE

1. I, the undersigned, am the attorney for the **DEFENDANTS** **CHARLES K. SOLIDAY, AND LJF, INC.**, in the matter herein.

2. On February 13, 2017, I served the within **ANSWER**, **DEMAND FOR STATEMENT OF DAMAGES, JURY DEMAND** by depositing a true copy thereof enclosed in a post-paid wrapper, by in an official depository under the exclusive care and custody of the U.S. Postal Service, addressed to each of the following persons at the last known address set forth after each name:

TO: Floyd C. Goldsman, Esq.
60 Evergreen Place - Suite 312
East Orange, New Jersey 07018
Attorney for Plaintiff

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: February 13, 2017


ELIAS ABILHEIRA, ESQ.

EXHIBIT D

FLOYD C. GOLDSMAN

ATTORNEY AT LAW

60 EVERGREEN PLACE, SUITE 312
EAST ORANGE, NEW JERSEY 07018

TEL: 973-676-1555
FAX: 973-676-1116

floydgoldsman@gmail.com
floydgoldsmanlaw.com

March 8, 2017

Via fax: 732 866 1887 and regular mail

Abilheira & Associates, P.C.
34 East Main Street
Freehold, NJ 07728

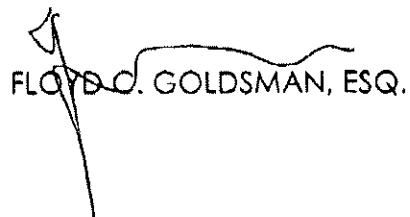
Re: Joseph M. Llarena vs. Charles k. Soliday, et al.
Docket No.: ESX-L-7852-16
Our Client: Joseph M. Llarena
D/A: August 1, 2014

Dear Mr. Abilheira:

By way of a response to the request for a statement, plaintiff demands
\$100,000.00.

Thank you.

Very truly yours,


FLOYD C. GOLDSMAN, ESQ.

FCG/ss